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2
3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**
5

6 FIRST 100 LLC; KAL-MOR-USA, LLC,

7 Plaintiff,

2:13-CV-00680-LDG-NJK

8 v.

ORDER

9 BANK OF AMERICA, N.A.; RECONTRUST
10 COMPANY, N.A., THE BANK OF NEW
11 YORK MELLON, FKA THE BANK OF
12 NEW YORK, AS TRUSTEE FOR THE
13 CERTIFICATE HOLDERS OF THE
14 CWHEQ INC., CWHEQ REVOLVING
15 HOME EQUITY LOAN TRUST, SERIES
16 2005-F, A REMIC TRUST; DOES I through
17 X; and ROE CORPORATIONS I through X,
18 inclusive,

19 Defendants.

20 BANK OF AMERICA, N.A.

21 Counterclaimant,

22 v.

23 KAL-MOR-USA, LLC,

24 Counterdefendant.

25 BANK OF AMERICA, N.A.,

26 Cross-Claimant,

v.

27 CANYON WILLOWS HOMEOWNERS
28 ASSOCIATION; UNITED LEGAL
29 SERVICES; and RED ROCK FINANCIAL
30 SERVICES,

Cross-Defendants.


1 Cross-defendant Canyon Willow Homeowners Association (the HOA) moves to
2 dismiss cross-claimant Bank of America, N.A.'s cross-claims (ECF No. 78). The HOA is
3 joined by cross-defendant Red Rock Financial Services (ECF No. 80). Bank of America
4 opposes the motion.

5 Canyon Willow argued, in part, that Bank of America's claims are barred by the
6 statute of limitations. Bank of America responded that its claims were not barred
7 because its claims would not even accrue until it incurred damages, and that it would
8 incur damages only upon a declaration by this Court that its first deed of trust is invalid.

9 Subsequent to the parties' briefing on the motion to dismiss, the Court has
10 determined that the HOA's foreclosure sale did not extinguish Bank of America's deed of
11 trust and has granted summary judgment in favor of the Bank of America's counterclaims
12 and against Kal-Mor-USA LLC's claims. As such, it would appear to the Court that Bank
13 of America's cross-claims, as well as Canyon Willow's motion to dismiss those claims,
14 may have been rendered moot by these subsequent proceedings. To ensure that the
15 Court does not render an advisory opinion regarding Bank of America's cross-claims, and
16 to provide the parties an opportunity to fully address the impact of these subsequent
17 developments in this matter as relevant both to the motion to dismiss and whether Bank
18 of America may continue to prosecute its cross-claims, the Court will deny the motion to
19 dismiss without prejudice. Accordingly,

20 THE COURT **ORDERS** that Canyon Willow Homeowners Association's Motion to
21 Dismiss (ECF No. 78) is DENIED without prejudice.

22 DATED this 21 day of September, 2017.

23
24 
25 Lloyd D. George
26 United States District Judge